

JUSTIFICATION OF CHANGES WITHOUT REGULATORY EFFECT  
California Code of Regulations, Title 22, Division 6, Chapter 8

Pursuant to Title 1, Division 1, Chapter 1, Article 2, section 100(b)(3), of the California Code of Regulations (CCR), the California Department of Social Services (CDSS) hereby submits this written statement explaining why the proposed amendments to CCR, Title 22, Division 6, Chapter 8, sections 87163, 87217 and 87775 do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision. This package meets the standard as set forth under CCR, Title 1, Division 1, Chapter 1, Article 2, section 100(a)(6) concerning revisions due to a changed California statute.

Health and Safety Code (HSC) section 1569.50 is referenced as Handbook in CCR, Title 22, sections 87163 and 87775. Assembly Bill 1899 (Chapter 700, Statutes of 2014) amended HSC section 1569.50 to expressly exclude from licensure, without the right to petition for reinstatement, any applicant that previously abandoned a facility and residents in care. Handbook reference in Section 87775 is revised to include HSC section 1569.686(c). This statute was added by Senate Bill 897 (Chapter 376, Statutes of 2011) and gives CDSS the authority to suspend or revoke a license if a licensee fails to provide the required notice of specified events and the resident suffers transfer trauma or other harm, as specified. Throughout Title 22 regulations, Handbook references utilize the word "provides." For consistency, Handbook text is revised from the word "reads" to the word "provides."

Handbook reference is added for the purpose of clarity, consistency and ease of access by the Licensing Program Analysts who are responsible for monitoring licensee compliance of laws and regulations for Residential Care Facilities for the Elderly. Providing statute in the regulation as Handbook reference is at the discretion and formatting preference/style of CDSS.

Probate Code (PC) section 1145 is cross-referenced in CCR, Title 22, section 87217. This cross-reference is outdated and is revised to reflect the correct PC section cross-reference.

Section 87163(f)

Proposed Change:

Add reference to HSC section 1569.50(d).

- (f) Except as otherwise specified by Health and Safety Code section 1569.50(d), An applicant may appeal the denial of the application by sending a written notice of appeal to the licensing agency within 15 days of the postmark date of the denial notice.

#### Section 100 Justification:

The proposed language is added for clarity and to make the regulations consistent with statute. As specified in HSC section 1569.50, an applicant that previously abandoned a facility and residents in care is expressly excluded from licensure without the right to petition for reinstatement. Pursuant to CCR, section 100(a), an agency may add to text published in the CCR without complying with the rulemaking procedure specified in Article 5 of the Administrative Procedure Act (APA) only if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision. This qualifies as a CCR, section 100(a)(6) change regarding making a regulatory provision consistent with a changed California statute. The adopting agency has no discretion to adopt a change which differs in substance from the one chosen.

#### Section 87217(j)(4)

##### Proposed Change:

Add reference to PC section 7600.

- (4) If the licensee is unable to notify a responsible party as specified above, immediate written notice of the resident's death shall be given to the public administrator of the county as provided by Section ~~445~~7600.5 of the California Probate Code.

#### Section 100 Justification:

The proposed language is added to correct an outdated cross-reference. Pursuant to CCR, section 100(a), an agency may add to text published in the CCR without complying with the rulemaking procedure specified in Article 5 of the APA only if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision. This qualifies as a CCR, section 100(a)(6) change regarding making a regulatory provision consistent with a changed California statute. The adopting agency has no discretion to adopt a change which differs in substance from the one chosen.

#### Section 87775(a)

##### Proposed Change:

Add reference to HSC section 1569.686(c).

- (a) Pursuant to the provisions of Chapter 5, (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, the Department may suspend or revoke any license on any of the grounds stipulated in Health and Safety Code sections 1569.1515(c), ~~and 1569.50 and 1569.686(c).~~

Section 100 Justification:

The proposed language is added for clarity and to make the regulations consistent with statute. The HSC Code section 1569.686(c) was added to statute to give CDSS the authority to suspend or revoke a license if a licensee fails to provide the required notice of specified events and the resident suffers transfer trauma or other harm, as specified. Pursuant to CCR, section 100(a), an agency may add to text published in the CCR without complying with the rulemaking procedure specified in Article 5 of the APA only if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision. This qualifies as a CCR, section 100(a)(6) change regarding making a regulatory provision consistent with a changed California statute. The adopting agency has no discretion to adopt a change which differs in substance from the one chosen.